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HOUSE BILL 210

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Al Park

AN ACT

RELATING TO MINIMUM WAGES; CLARIFYING THE MINIMUM WAGE FOR
TIPPED EMPLOYEES; AMENDING SECTION 50-4-22 NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 50-4-22 NMSA 1978 (being Laws 1955,
Chapter 200, Section 3, as amended) is amended to read:

"50-4-22. MINIMUM WAGES. --

A. An employer, except as provided in Section
50-4-21 NMSA 1978, shall pay the minimum wage rate of five
dollars fifteen cents (\$5.15) an hour, except that an employer
furnishing food, utilities, supplies or housing to an employee
who is engaged in agriculture may deduct the reasonable value
of such furnished items from any wages due to the employee.

B. ~~[All employees covered by]~~ An employee subject
to Subsection A of this section who customarily and regularly

underscoring material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 [receive] receives more than thirty dollars (\$30.00) a month in
2 tips shall be paid a minimum hourly wage of [~~two dollars twelve~~
3 ~~and one-half cents (\$2.125)~~] two dollars thirteen cents
4 (\$2.13). The employer may consider tips as part of wages, but
5 [~~such a wage credit~~] the tips combined with the employer's cash
6 wage shall not [exceed fifty percent of the minimum wage] equal
7 less than five dollars fifteen cents (\$5.15) per hour. All
8 tips received by such employees shall be retained by the
9 employee, except that nothing in this section shall prohibit
10 the pooling of tips among employees.

11 C. An employee [~~covered by~~] subject to the
12 provisions of Subsection A of this section shall not be
13 required to work more than forty hours in any week of seven
14 days, unless he is paid one and one-half times his regular
15 hourly rate of pay for all hours worked in excess of forty
16 hours. For an employee who is paid a fixed salary for
17 fluctuating hours and who is employed by an employer a majority
18 of whose business in New Mexico consists of providing
19 investigative services to the federal government, the hourly
20 rate may be calculated in accordance with the provisions of the
21 federal Fair Labor Standards Act of 1938 and the regulations
22 pursuant to that act; provided that in no case shall the hourly
23 rate be less than the federal minimum wage. "